
Health Care & Wellness Committee

HB 2068

Brief Description: Concerning criminal background checks.

Sponsors: Representatives Goodman, Hurst, Priest, O'Brien, Miloscia, Seaquist, Cody, Appleton, Roberts, Campbell and Morrell.

Brief Summary of Bill

- Adds a definition of "background check" that references submitting fingerprints through the Washington State Patrol and the Federal Bureau of Investigation for purposes of investigating conviction records of providers of long-term care services and other services administered by the Department of Social and Health Services.

Hearing Date: 2/19/09

Staff: Chris Cordes (786-7103)

Background:

The Washington State Patrol (WSP) is the state's central repository for fingerprint-based Criminal History Record Information (CHRI). The WSP is authorized to disseminate certain CHRI for both criminal and non-criminal purposes. When the purpose of the dissemination is non-criminal, the released CHRI includes convictions, adverse dispositions, arrests under one-year old without disposition, and sex and kidnapping offender registrations.

Under various laws, the Department of Social and Health Services (DSHS) is responsible for investigating the suitability of applicants or service providers to: (1) have unsupervised access to children, vulnerable adults, or persons with disabilities; (2) provide in-home services under various programs; or (3) provide services at secure facilities operated by the DSHS. These investigations will include an examination of state CHRI. The DSHS may, at any time, also require a fingerprint-based national background check through the WSP and the CHRI maintained by the Federal Bureau of Investigation (FBI). Applicants or service providers who

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have resided in the state for fewer than three years must be fingerprinted for investigating criminal records through both the WSP and the FBI.

The passage of Initiative 1029 (I-1029) in 2008 added a new background check provision to the state law governing long-term care service options. The new provision requires all long-term care workers hired after January 1, 2010, to be screened through state and federal background checks, including checking against the FBI fingerprint identification records system and the National Sex Offenders Registry. (The National Sex Offender Registry is coordinated by the U.S. Department of Justice to host various state sex offender registries. It allows the user to submit a single search to obtain information across all the participating state registries.)

On December 1, 2008, the WSP received a letter from the FBI's Office of the General Counsel stating that the requirements in I-1029 did not qualify for access to the FBI-maintained CHRI. The letter cited two deficiencies: (1) the measure failed to reference the submission of fingerprints; and (2) for sharing of information with the Department of Health (DOH), the statute must be clear that the DOH has concurrent responsibility for making suitability determinations.

Summary of Bill:

A definition of "background check" or "finger-print based background check" is added to the state law governing long-term care service options. Under this definition, a background check means a fingerprint check submitted to investigate conviction records through both the Washington State Patrol and the Federal Bureau of Investigation.

The new definition of "background check" applies to the laws governing the responsibility of the Department of Social and Health Services (DSHS) to investigate the suitability of applicants or service providers to: (1) have unsupervised access to children, vulnerable adults, or persons with disabilities; (2) provide in-home services under various programs; or (3) to provide services at secure facilities operated by the DSHS.

The requirements related to investigating conviction records of individual providers or home care agency providers who have resided in the state for fewer than three years apply only until January 1, 2010. After January 1, 2010, state and federal background checks for long-term care workers are governed by the background check requirements adopted in Initiative 1029.

Beginning January 1, 2010, the Department of Health, pursuant to its authority to certify long-term care workers, is given concurrent responsibility with the DSHS for suitability determinations regarding disqualifying crimes.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect on April 1, 2009.